

SUBCOMMITTEE NO. 4

Agenda

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<u>Item</u>	<u>Department</u>	<u>Page</u>
Court Appointed Receiver for Medical Care		2
Draft Strategic Plan		2
Health Care and Health Care-Related Facilities—Capital Outlay		3
AB 900 Implementation.....		7
AB 900 Benchmarks – Prison Bed Construction		9
Facilities Construction Strike Team.....		10
Facilities Management Staffing		11
Facilities Master Plan		11
Infill-Beds.....		12
Re-Entry Beds		16
AB 900 Benchmarks – Jail Bed Construction.....		17
Jail Beds		17
Infrastructure Issues		18

State Administration—General Government—Judiciary—Transportation

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Court Appointed Receiver for Medical Care

Background. In April 2001, *Plata v. Davis* was filed in federal court contending that the California Department of Corrections and Rehabilitation (CDCR) was in violation of the Eighth (prohibits cruel and unusual punishment) and Fourteenth (right to due process and equal protection) Amendments to the United States Constitution by providing inadequate medical care to prison inmates.

In January 2002, the state entered into a settlement agreement, committing to significant changes in the delivery of health care services to inmates. Generally, the settlement agreement focused on improving inmate access to health care, as well as the quality of health care services provided in the prisons. Under the agreement, independent court-appointed medical experts monitored the implementation of the agreement, and periodically reported to the court on the state's progress in complying with the agreement.

In September 2004, the federal court issued an order finding significant deficiencies in the department's efforts to implement the terms of the settlement agreement and in June 2005, the federal court decided to appoint a Receiver to manage CDCR's health care system. The Receiver would manage CDCR's health care system until the department proves to the court that it is capable and willing to manage a constitutional health care system or contract out for a similar level of care. The court appointed Robert Sillen as the Receiver in February 2006. Robert Sillen was replaced as the Receiver by the court in January of this year by J. Clark Kelso.

Draft Strategic Plan

Summary of Plan. As mentioned above, the new Receiver was appointed in January of this year. He released a draft strategic plan for public comment on March 11, 2008. According to the plan, the overall mission of the Receivership is to reduce unnecessary morbidity and mortality and protect public health by providing patient-inmates timely access to safe, effective, and efficient medical care, and coordinate the delivery of medical care with mental health, dental, and disability programs.

In addition to receiving public comment, the draft strategic plan will be reviewed by the Plata Advisory Working Group (PWG) and other interested stakeholders. The PWG assisted the court in reviewing the previous Receiver's November 15, 2007, Plan of Action. In its January 23, 2008 order appointing a new Receiver, the court adopted recommendations by the PWG finding: (1) that further work was necessary on the Plan of Action; and (2) that the Court should appoint an Advisory Board to assist in the Court's oversight of the Plata case. It is expected that the permanent Advisory Board will be appointed upon submission of the final version of the Receiver's strategic plan to the Court.

Five strategic goals have been identified in the draft strategic plan. Each of the goals has associated objectives and action items that describe the steps needed to bring CDCR's health care program to constitutionally acceptable and sustainable levels. The five strategic goals are as follows:

1. Ensure timely access to care;
2. Improve the medical program;
3. Strengthen the health care workforce;
4. Establish medical support infrastructure; and
5. Build health care and health care-related facilities.

The Receiver notes that several of these goals encompass virtually all aspects of CDCR's health care delivery system and the Receiver has indicated that he is actively coordinating planning and implementation with CDCR's mental, dental, and health care accessibility programs.

The focus of this agenda is on the fifth strategic goal – to build health care and health care-related facilities.

Health Care and Health Care-Related Facilities—Capital Outlay

Background. The federal courts have found that the current state of prison infrastructure does not support a constitutional level of health care. This has been found in the *Plata* case, as well as the *Coleman* case relative to mental health care, the *Perez* case relative to dental care, and the *Armstrong* case relative to CDCR's disabled inmates. The judges in three of these cases (*Plata*, *Coleman*, and *Armstrong*) are coordinating to ensure that the physical improvements needed to support a constitutional level of care are made at CDCR's prison facilities. The three courts have agreed that the Receivership shall coordinate the construction of these facilities.

Draft Strategic Plan – Health Care Facilities Objectives. As mentioned above, one of the five strategic goals contained in the new Receiver's recent draft strategic plan is to build health care and health-care related facilities. Specifically, the Receiver's goal has three main objectives to bring health care up to constitutional levels within CDCR. These objectives are summarized below:

- **Prison Specific Upgrades.** Upgrade administrative and clinical facilities at each of CDCR's 33 prison locations. The Receiver plans to complete this objective by December 2011 and proposes a phased approach to implementation. The Receiver plans to have assessments and preliminary plans completed for one-third of the facilities by the end of calendar year 2008.
- **Consolidated Care Centers.** Construct administrative, clinical, and housing facilities to serve up to 10,000 inmates with medical and/or mental health needs. These facilities have commonly been referred to as Consolidated Care Centers. The Receiver plans to complete this objective by January 2013. The Receiver plans to construct these centers at seven sites that will each support up to 1,500 inmates. The Receiver is still evaluating potential sites. The Receiver estimates that half of the beds will be for inmates with medical needs and the remaining will be for inmates with mental health needs. The Receiver is planning to construct stand-alone facilities that are designed to be self sufficient for support services such as food, laundry, and central plant.

- **San Quentin Project.** The new Receiver plans to finish construction at San Quentin. The first Receiver started various projects to improve the medical treatment space at San Quentin, including the construction of a Central Health Services Facility to improve health care and reception center processing at San Quentin. The Receiver plans to complete the various projects at San Quentin by December 2008 and the Central Health Services Facility by Spring 2010.

Draft Strategic Plan – Consolidated Care Centers. Approximately half of the beds will be dedicated to inmates with medical needs and the other half will be for inmates with mental health needs. The size of this bed plan was determined by needs studies conducted by the Receiver and by the Special Master in the *Coleman* lawsuit. Half of the overall square footage of the Consolidated Care Centers will be for clinical and administrative space and the other half will be for housing the inmates. As described above, the majority (75 percent) of the housing will be open dorm. However, some (25 percent) will be assisted living and licensed nursing home care.

Specifically, the Receiver is proposing to build the following mix of medical beds:

- **Specialized General Population.** 73 percent of the beds or 3,650 beds will be open dorm for patients with functional impairments or chronic conditions requiring ready access to health care services (chronic lung disease, wheel chair bound patients with spinal cord injuries, etc.).
- **Assisted Living Housing.** 18 percent or 900 beds will be assisted-living quality housing for patients that require nursing needs (wheel chair bound patients with wounds that need regular dressing, stroke patients that require help with daily tasks, etc.).
- **Nursing Home Housing.** 9 percent or 450 beds will be nursing-home quality housing (patients undergoing chemotherapy, patients that are bed bound, etc.).

The mental health bed plan has been developed over several years by CDCR in conjunction with private consultants and the Special Master in the *Coleman* lawsuit. Several projects for the *Coleman* lawsuit are already under construction. However, the draft strategic plan outlines that the Receiver will oversee the construction of the following additional mental health beds:

- **Enhanced Outpatient Program – Regular.** 68 percent or 3,400 open dorm beds for enhanced outpatient program inmate-patients.
- **Enhanced Outpatient Program – High Custody.** 18 percent or 900 beds for high-custody enhanced outpatient program inmate-patients.
- **Other Crisis-Type Beds.** 14 percent or 700 other beds that will be a mix of mental health crisis beds, acute beds, an intermediate care facility, and a high custody intermediate care facility.

Existing Funding Allocated for Health Care Facilities. Chapter 7, Statutes of 2007 (AB 900, Solorio) included \$857 million in lease-revenue bond authority to construct up to 6,000 medical and mental health beds in Phase I of the prison bed construction authorized by the legislation. The legislation also included \$286 million to support the construction of an additional 2,000 beds in Phase II of the prison bed construction after certain benchmarks were met by CDCR and local communities. In total, AB 900 allocated \$1.1 billion to support the construction of health care related facilities.

In addition, Chapter 245, Statutes of 2007 (SB 99, Budget) was enacted to allocate \$146.2 million of the lease-revenue bond authority provided in AB 900 for the construction of the Central Health Services Facility at San Quentin. This legislation also authorized this project to be constructed outside some of the state's normal contracting and bidding practices.

To date, no bonds have been issued for the construction of health care facilities. However, the Receiver has allocated some General Fund from the Receivership budget to remodel existing facilities at San Quentin and start demolition at San Quentin in order to prepare for construction of the new Central Health Services Facility.

Governor's Budget and Finance Letter. A Finance Letter (dated April 12, 2008) proposes legislation to authorize \$6.9 billion in lease-revenue bonds and \$100 million in General Fund to support the construction of the health care bed plan contained in the Receiver's draft strategic plan. The proposal consists of funding for the following projects:

- **Prison Specific Upgrades.** \$900 million in lease-revenue bond authority and \$100 million from the General Fund to design and construct health care facility improvements at all existing prison facilities statewide. This effort does not include dental facilities and some mental health facilities that are being pursued separately from the Consolidated Care Centers. The Finance Letter assumes \$450 million in lease-revenue bond authority and \$50 million in General Fund would be expended in the budget year.
- **Consolidated Care Centers.** \$6 billion in lease-revenue bond authority to design and construct specialized health care beds and health-related facilities for up to 10,000 inmates with medical and mental health care needs, including all supporting infrastructure and ancillary facilities. The Finance Letter assumes that \$2.5 billion would be expended in the budget year.

The Governor's budget proposal assumes that \$49 million in lease-revenue bond authority will be expended to support the preliminary plans, working drawings, and construction of the Central Health Services Facility at San Quentin in the current year. The budget assumes the remainder (\$97.5 million in lease-revenue bonds) allocated to this project will be expended in the budget year.

The Governor's budget originally discussed shifting \$2.2 billion in lease-revenue bond authority—originally allocated in AB 900 to build new prison beds and reentry centers—to support the construction of new medical facilities planned by the Receiver. However, the Department of Finance has indicated to staff that it is no longer pursuing this proposal.

LAO Recommendation. The LAO finds that the cost, design, and timing of the projects proposed by the Receiver need to be reviewed before they can provide an analysis and recommendation to the Legislature. Given the recent submission of the Receiver's facility plan the LAO has not had an opportunity to analyze the plan. The LAO highlights in its Analysis that there are several proposals pending before the Legislature and the courts that would significantly reduce the size of the inmate population that would impact the number of new beds needed.

Staff Comments. Staff finds that there are many key issues for the Legislature to consider when evaluating the Receiver's health care bed plan. The following is a list of issues staff

recommends that the Legislature evaluate:

- **Legislative Oversight.** The Legislature has an important role in appropriating funding to support state-funded projects, including the projects proposed by the Receiver. The Legislature may wish to develop a process to ensure some legislative oversight of the specific projects as the Receiver develops these projects and submits them to the Public Works Board for approval.
- **Impact on Infill and Reentry.** Staff finds that a rigorous analysis is needed of how the Receiver's bed plan impacts and changes the plan to build prison beds authorized in AB 900.
- **Population Impacts on Plan.** It will also be important for the Legislature to evaluate the bed plan in the context of several population reduction proposals currently pending before the Legislature and the courts.
- **Operational Costs.** It will be important that staffing plans be developed for the projects proposed by the Receiver so that the state can plan for future operational costs related to these facilities.
- **Operational Issues.** Half of the beds in the Receiver's plan are to support inmates with acute mental health issues. The Legislature may wish to evaluate who should manage the operations of these new mental health facilities. Should CDCR operate the treatment programs in these new facilities or should the treatment program be managed by the Department of Mental Health. (Currently, the Department of Mental Health manages the treatment program in a few of CDCR's facilities.)

Staff also notes that there continues to be significant court-related capital outlay projects that will need to be implemented by the department. The department has already started construction of several capital outlay projects court-ordered under the *Coleman* lawsuit related to mental health care. The department will also be responsible for constructing additional space at all 33 prisons to expand dental clinic space as directed by the *Perez* lawsuit. The Department of Finance has indicated that these projects will be funded out of the AB 900 allocation for medical and mental health beds.

AB 900 Implementation

Background. On April 26, 2007, the Legislature approved legislation (Chapter 7, Statutes of 2007 [AB 900, Solorio]) to authorize additional prison and jail bed capacity. The legislation authorized \$7.4 billion in lease-revenue bonds and appropriated \$350 million General Fund to implement this legislation. The legislation was structured to phase in the funding for the construction of new prison beds and jail beds as the department achieved various benchmarks. The legislation also contained significant new legislative directives related to rehabilitative programming in CDCR.

The three main components of AB 900 are summarized below:

1. Prison Bed Construction.

- **Phase I – Prison Bed Construction.** The legislation authorized \$3.6 billion in lease-revenue bonds to construct: (1) 12,000 infill beds at existing prisons (\$1.8 billion); (2) 6,000 re-entry beds, which are smaller secure facilities of up to 500 beds with concentrated rehabilitative services (\$975 million); and (3) 6,000 medical and mental health beds (\$857 million). The legislation also appropriated \$300 million General Fund for infrastructure improvements at existing prisons.
- **Phase II – Prison Bed Construction.** The legislation also authorized an additional \$2.5 billion in lease-revenue bonds to construct: (1) 4,000 infill beds at existing prisons (\$600 million); (2) 10,000 re-entry beds (\$1.6 billion); and (3) 2,000 medical and mental health beds (\$286 million). Funding would be made available for Phase II only if certain conditions and benchmarks are met and verified by a three-member panel comprising of the State Auditor, the Inspector General, and an appointee of the Judicial Council.

2. Recidivism Reduction and Rehabilitation. The legislation also required CDCR to implement various reforms to reduce recidivism and increase rehabilitation efforts. The legislation also appropriated \$50 million to enhance rehabilitation programming in 2007-08. These reforms include the following:

- **New Beds Must Include Program Space.** Required all new state prison beds to include substance abuse treatment, work programs, academic and vocational education, and mental health care. Also, authorizes CDCR to use portable buildings for inmate rehabilitation treatment, and housing to ensure sufficient program space is available.
- **Expanded Substance Abuse Beds.** Required implementation of 4,000 new dedicated substance abuse treatment beds with post-release aftercare treatment for parolees.
- **Mandatory Needs Assessment.** Required individualized program needs assessment for all inmates at reception centers.
- **Prison-to-Employment Plan.** Required development of a prison-to-employment plan to ensure programs provide sufficient skill to assist in successful re-entry and employment.
- **Rehabilitation Oversight Board.** Created the California Rehabilitation Oversight Board (C-ROB) to evaluate CDCR rehabilitation and treatment programs and recommend changes to the Governor and the Legislature.
- **Mental Health Day Treatment.** Required development of mental health day treatment

for parolees.

- **Education Incentives.** Required implementation of a system of incentives designed to increase participation in education programs and encourage inmates to complete educational goals.
- **Rehabilitative Staff Pipeline Development.** Required development of a staffing pipeline plan to fill vacant prison staff positions, obtain treatment services from local governments, and increase the number of rehabilitation and treatment personnel with proper education and credentials.
- **Management Deficiencies.** Required CDCR to develop and implement a plan to address management deficiencies within the department.

3. Jail Bed Construction.

- **Phase I – Local Jail Construction.** The legislation authorized \$750 million in lease-revenue bonds for the construction of 8,000 county jail beds. The financing will require a 25 percent county match. The funding will be allocated to counties that help the state site re-entry facilities, increase mental health and substance abuse services for parolees, and help the state site mental health day treatment for parolees.
- **Phase II – Local Jail Construction.** The legislation also authorized \$470 million in lease-revenue bonds for the construction of an additional 5,000 county jail beds in Phase II. Funding will be made available for Phase II only if specified benchmarks are met.

The department has been working on implementing AB 900 since it was enacted last year. This agenda attempts to summarize the progress made by the department in implementing the various provisions contained in AB 900. This agenda will focus on two of the three main components of AB 900: (1) prison bed construction and (2) jail bed construction. There will be a subsequent discussion on CDCR's recidivism reduction and rehabilitation efforts.

AB 900 Benchmarks – Prison Bed Construction

Background. As mentioned above, there are numerous benchmarks that must be met and verified by a three-member panel comprised of the State Auditor, the Inspector General, and an appointee of the Judicial Council before funding would be made available for Phase II of the prison bed construction plan approved in AB 900. To date, the three-member panel has not met to consider developments made by the department with regards to the benchmarks detailed below.

- **Infill Beds.** At least 4,000 of the infill beds authorized in Phase I must be under construction or sited, including adequate rehabilitation programming space to implement AB 900.
- **Re-Entry Beds.** At least 2,000 re-entry beds authorized in Phase I must be under construction or sited.
- **Substance Abuse Beds.** At least 2,000 of the new substance abuse beds must be established and prison drug treatment slots must have averaged 75 percent participation over the previous six months.
- **Risk/Needs Assessment.** An individualized inmate risk/needs assessment must be administered at reception centers and be used to assign inmates to housing and programs for at least six months.
- **Prison-to-Employment Plan.** The CDCR must have completed the Inmate Treatment and Prison-to-Employment Plan required by AB 900.
- **Parolee Mental Health Treatment.** At least 300 parolees must be served daily in mental health treatment centers.
- **California Rehabilitation Oversight Board.** The California Rehabilitation Oversight Board must be in operation for one year and be regularly reviewing CDCR's programs.
- **Management Deficiencies.** The CDCR must implement a management deficiency plan and have at least 75 percent of management positions filled for at least six months.
- **Educational Programs.** The CDCR must increase full-time participation in inmate education and vocational education programs by 10 percent over the April 2007 levels.
- **Vacancy Rate.** The CDCR must develop and implement a plan to obtain additional rehabilitation services and reduce its vacancy rate for positions dedicated to rehabilitation and treatment services in prisons and parole offices to no greater than the statewide average vacancy rate for all state positions.
- **Parole Procedures.** The CDCR must review its current parole procedures.

Staff Comments. Staff notes that CDCR recently released (April 10, 2008) a document entitled "Prison Reforms: Achieving Results" that provides an update on the progress the department has made in meeting each of the benchmarks listed above, including a projected completion date. In this document the department projects that it will have completed all of the benchmarks by December 2008. Staff finds that many of the projected completion dates seem overly optimistic. Furthermore, staff notes that many of the benchmarks are sufficiently vague and working definitions are needed to determine when the benchmarks are actually met. Staff is not aware of the working definitions developed by the department for this purpose. Furthermore, as stated above, the three-member panel has not been convened to establish the working definitions or make a determination of progress by the department.

Facilities Construction Strike Team

Background. During the 2007 budget deliberations, there was considerable discussion and concern about CDCR's capacity to support the construction program contained in AB 900 (Solorio). Furthermore, there was also considerable concern expressed by the LAO and this Subcommittee about the lack of detail and analysis submitted to support the infill bed plan.

Shortly after the Governor signed AB 900, at the beginning of May 2007, he named a facilities construction strike team to assist the department in developing a comprehensive and effective strategy for implementing the construction program contained in AB 900. The strike team was chaired by Deborah Hysen, Chief Deputy Secretary for Facility Planning Construction and Management, and was comprised of retired CDCR staff that had been involved in the state's last significant prison construction effort in the 1990s, capital outlay experts, and correctional experts.

Report Found Significant Shortfalls with CDCR Capacity and Plan. The strike team completed a report by the end of May 2007. In developing this report the strike team directed an independent assessment by the Department of General Services of the infill plan and the department's existing capital outlay staffing resources. The independent assessment concluded that CDCR did not have an adequate plan to build the infill beds and could not complete construction within 18 to 24 months as represented to the Legislature. Based on this assessment and other analysis the strike team concluded the following:

- CDCR lacked the organizational structure, capacity, and depth to construct the required facilities.
- The construction estimates and project schedules for the infill bed plans were cursory and were absent the detail normally required of a capital outlay project intended to be funded with lease revenue bonds.
- The infill expansion plan lacked any detail to suggest that necessary program space had been included to meet the objectives of AB 900 or whether space requirements for health-related infrastructure required by the federal courts had been included in the projects.
- CDCR had not engaged in any planning activity for the reentry facilities other than preliminary talks with local governments.
- CDCR was operating in "crisis mode" and must engage and lead its executives, employees, and all available resources in a more organized strategic and focused effort that effectively prioritizes and implements the objectives of AB 900 while still meeting its other workload requirements.

The strike team identified four major problem areas within CDCR that would hamper their ability to successfully implement the construction program contained in AB 900. These problems included organizational weakness, project planning deficiencies, inadequate programming effort, and management challenges. The strike team identified a number of immediate steps and an action plan that has become a blueprint for CDCR in implementing the construction program contained in AB 900. The work of the facilities strike team was concluded with this one and only strike team report issued on May 31, 2007.

Staff Comments. Staff finds that various conclusions made by the strike team are consistent with findings of this Subcommittee during 2007 hearings prior to the passage of AB 900.

Facilities Management Staffing

Background. As mentioned above, there was considerable concern during budget deliberations last year about the capacity of CDCR to effectively implement the construction program contained in AB 900. The 2007-08 Budget Act included \$11.9 million (\$2.4 million General Fund) for support of 111 new positions to support the construction directed by AB 900.

Update on Progress. The LAO reports that a number of key construction management staff have been hired and a major reorganization of the department's Office of Facilities Management has occurred. The hiring and reorganization occurred in the fall of 2007 and by January 2008 the department had filled 32 of the 88 positions allocated to the Office of Facilities Management in the 2007-08 Budget Act.

Staff notes that the vast majority of positions funded to support the AB 900 construction program were proposed to be funded out of proceeds from the lease-revenue bonds. Since the department has not submitted any lease-revenue bond funded projects to the Public Works Board for approval, the department has not been able to hire these positions.

Governor's Budget. The Governor's budget does not contain any budget proposals to support changes to the department's facilities management staffing to support AB 900.

Staff Comments. Staff finds that the department has made some progress in recruiting and developing the staff resources needed to implement the construction program contained in AB 900. However, the LAO notes that this progress has been slowed by the lack of access to funding for planning. The LAO finds that AB 900 included funding for studies, preliminary plans, working drawings, and construction costs funded from lease-revenue bond financing. However, the legislation did not contain sufficient funds to develop the capital outlay planning packages that needed to be developed prior to the approval of these projects by the Public Works Board. Usually, a department would have completed all of this pre-planning work before it sought an appropriation of funds by the Legislature. However, as highlighted in the next section, AB 900 is unique in that the monies were appropriated prior to the full development of the capital outlay projects that would be funded.

Facilities Master Plan

Background. Subsequent legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) included significant new reporting requirements to ensure legislative oversight over the construction program contained in AB 900. Since AB 900 appropriated all of the lease-revenue bond authority, projects funded by this legislation will not be included in the annual budget process like other lease-revenue bond fund projects. Instead, Chapter 175 created procedures outside of the budget process that requires CDCR to submit capital outlay budget proposals to the Legislature 30 days before they are submitted to the Public Works Board for approval.

This legislation also contained significant changes to the department's master plan document. The master plan required by statute is now required to not only be a tracking document for all capital outlay projects, but also an analysis tool that provides some context for why each infrastructure project furthers the objectives and operational goals of the department. The master plan, in theory, should help the department and the Legislature to proactively develop its facilities and related programs based on its projected needs.

First Master Plan Submitted. The department submitted its first master plan since 1998 in March of this year. This plan describes the scope and costs of all infrastructure projects being implemented and currently planned by the department. The plan also proposes to provide some context regarding how various capital outlay projects will allow CDCR to achieve its operational mandates, goals, and objectives. However, the department admits that this aspect of the report could be strengthened considerably by actually establishing facility standards and operational goals and measuring the results of expenditures in terms of both costs and outcomes.

Staff Comments. Staff finds that the first draft of the master plan contains a limited analysis of the impacts of population projections, legislative impacts, and legal impacts on the department's infrastructure plan. The department admits that there are limitations with its current analysis, which only categorizes the population by security classification. The department indicates that it will base its future infrastructure planning efforts on more detailed population categories, including behavioral characteristics, criminogenic needs, and by their medical and mental health needs. Despite the shortcomings of this plan, staff finds that it reflects considerable more analysis than was evident in the original bed plan submitted to the Legislature.

Furthermore, the department indicates that the master plan does not reflect the impacts of the construction contemplated by the Receiver.

Infill-Beds

Background. Assembly Bill 900 included \$2.4 billion in lease-revenue bond authority to construct up to 16,000 infill beds at existing prisons. The purpose of these beds is to replace "bad beds" that have been placed in gyms and dayrooms to accommodate overcrowding.

The original bed plan included the following mix of beds by security level:

Infill Prison Bed Plan by Security Level	Number of Beds
Level I and II	10,420
Level III	2,223
Level IV	1,505
Reception Center	2,090
Total	16,238

The majority (over 60 percent) of the beds proposed to be constructed in the original bed plan were in dorm facilities (Level I/Level II housing). The LAO and this Subcommittee were critical of this bed plan for not reflecting the actual needs of the state. Specifically, the LAO found that the plan relied too heavily on the construction of additional dorm beds and did not include enough celled housing.

Strike Team Found AB 900 Infill Bed Plan Deficient. As mentioned above, shortly after AB 900 passed, the Governor appointed a strike team to develop a comprehensive plan for effectively implementing the construction program contained in AB 900. The analysis by the strike team found that the existing infill plan was deficient in the following respects:

- Plan assumed commingled housing and caused security concerns.
- Program space was deficient in the plan.
- Cost and schedule was inefficient because the majority of the projects were proposed to be constructed within the existing perimeter of the prison.
- Plan did not address both short- and long-term bed needs.
- Plan had not considered site specific issues such as staff availability, community support, environmental concerns, infrastructure issues, land availability, and Valley Fever.

After this evaluation, the CDCR developed a more sophisticated decision matrix to help rank and evaluate different bed plan options. This matrix was also used to compare the relative costs associated with the various infill bed projects. The department then proceeded to develop a new infill bed plan that was based on this analysis.

Lack of Planning Funds Has Delayed Infill Bed Plan. Legislation (Chapter 175, Statutes of 2007 (SB 81 [Budget])) made changes to AB 900 to ensure that capital outlay budget packages were submitted to the Legislature for review before the projects were approved by the Public Works Board. Unfortunately, specific funding to support the development of these budget packages was not included in this legislation or in AB 900. While these costs would be eligible for reimbursement once the lease-revenue bonds were issued, the department did not have sufficient dedicated resources to support the pre-planning work. Therefore, the department, after notification of legislation staff redirected, temporarily, \$6.5 million of the General Fund monies allocated for infrastructure in AB 900. The Governor has proposed trailer bill language to make it clear that the expenditures to prepare pre-planning capital outlay budget proposals should be reimbursable from AB 900 lease-revenue bond funding. The LAO reports that lack of planning funds has delayed the development of the department's infill bed plan.

Current Status of Infill Bed Plan. To date, the department has not submitted any infill capital outlay proposals to the Legislature for review. The CDCR recently released (April 10, 2008) a document entitled "Prison Reforms: Achieving Results" that includes the latest summary of the first phase of infill beds proposed by the department. The first four projects (what is referred to as Phase I – Segment I) includes 6,050 beds at the following four institutions:

- Kern Valley State Prison – 1,000 Level II dorm beds.
- North Kern State Prison – 950 reception center celled beds.
- Wasco State Prison – 950 reception center celled beds and 950 Level IV celled beds.
- California Correctional Institution – 950 reception center celled beds, 950 Level IV

celled beds, and 300 administrative segregation unit celled beds.

The most recent iteration of the four projects is slightly changed from what was included in the master plan. The master plan document reported that these beds would all be completed by October 2011, with the dorm beds being completed as early as December 2009. Furthermore, the costs per bed estimated in the master plan were between \$152,000 and \$237,000 per bed.

Staff notes that the large disparity between per bed costs could be directly related to site specific issues that, lacking a detailed capital outlay budget package, are difficult to determine. In addition, the first four projects represent a wide variety of types of housing that have different requirements. For example, reception center beds generally do not require the same compliment of rehabilitation space as a regular prison bed. Also, construction of cells and administrative segregation units are generally considerably more expensive than building dorm housing.

The master plan does not contain specific information on what the department is calling Phase I – Segment II and Phase II of the infill bed plan. However, the department does indicate that given the underlying flaws in the original bed plan it is unlikely that the department will be able to construct all 16,000 infill beds authorized in AB 900. Nevertheless, the master plan indicates that the department is committed to building the appropriate beds with the necessary support space to achieve the objectives of AB 900.

LAO Findings. The LAO has worked closely with the department to review various iterations of the department's revised infill bed plan. To date, an official plan has not been submitted to the Legislature. Specifically, the LAO finds the following:

- The new plan contemplates constructing considerably more celled housing, thereby reducing the proposed dorm beds.
- The revised plan concentrates construction at only ten sites as opposed to the prior plan that spread construction over 25 different prisons.
- The revised plan focuses heavily on construction of additional reception center housing.
- The revised plan contains significantly more space allocated for health care and academic education. Dedicated space for all health care related functions would increase by seven-fold over the amount of space constructed at the last state prison constructed (Kern Valley State Prison) and the space for rehabilitation programs would triple.

The LAO finds that overall the department is moving in the right direction by constructing more celled housing and less dormitory housing. The LAO finds that this housing mix is not only more aligned with the department's projected needs but is also more flexible since celled housing can easily be used for low- or high-security inmates. The LAO notes the importance of flexibility especially in light of the population reduction proposals proposed by the Governor and what may be considered by the three-judge panel to reduce prison overcrowding.

The LAO has raised some concern with the department's decision to choose dorms and reception center beds as its first projects, citing that population reduction proposal could have significant impacts on the demand for these facilities. These facilities would be disproportionately impacted because most population reduction proposals contemplated would impact low-level inmates that are typically housed in dorms and often at a high risk to recidivate because of substance abuse

issues.

The LAO concurs with the department's proposed increase in square footage for rehabilitation classrooms. However, the LAO has some outstanding questions related to the assumptions used in building additional health care space into its models. The LAO notes that the health care space proposed to be added in the infill projects is a nearly seven-fold increase over what was included when Kern Valley State Prison was constructed.

The LAO finds that the department's decision to build fewer, larger projects outside of inmate-occupied areas will likely result in major cost savings. Staff notes that construction within inmate-occupied areas can cost as much as 45 percent more than comparable projects outside inmate-occupied areas. The increased costs are a direct result of security checks that are required that reduce the length of the work day.

The LAO also finds that the estimated per bed costs appear to be significantly higher than the costs associated with building Kern Valley State Prison a few years ago. Kern Valley State Prison cost \$82,000 per bed when it was completed in 2005. The LAO now estimates that the cost per bed will average around \$222,000. The LAO does not believe inflation and increased labor costs can explain the near tripling of the costs in the last three years. The LAO notes that the so-called "soft" costs and contingencies appear to be major additional factors driving the department's cost estimates. Soft costs is the term often used to refer to non-construction costs of projects such as architectural and engineering fees, project management and construction management fees, and inspection fees.

LAO Recommendations. Based on the findings outlined above, the LAO has offered the following recommendations to the Legislature related to the construction program directed by AB 900. The LAO recommends the Legislature take the following actions:

- **Obtain Independent Cost Estimates.** The LAO recommends that the Legislature direct CDCR to obtain independent cost estimates for the construction costs from a private sector firm that has no involvement in these projects. The LAO understands that the Department of General Services routinely obtains two private sector estimates for its more costly projects. The LAO estimates that the costs of obtaining a second opinion on these construction costs would be minimal.
- **Establish In House Expertise.** The LAO also recommends that CDCR establish staff positions within CDCR that can provide effective and continuous monitoring and validation of all capital outlay cost estimates by private contractors. The Department of General Services has a similar construction estimating group that is able to verify the accuracy of the work of private sector firms. The LAO recommends establishing two positions at the department to accomplish this task.
- **Revise Infill Bed Plan.** The LAO recommends that after independent cost estimates are obtained, the department should revise its existing infill bed plan and develop an alternative plan that takes into consideration the Governor's proposal to reduce the prison population.
- **Fund Planning Packages.** The LAO recommends that the Legislature approve the trailer bill language proposed by the Governor to clarify that pre-planning activities required to develop detailed capital outlay budget packages be reimbursable from AB 900

lease-revenue bond financing. As mentioned above, the lack of dedicated funding has delayed the development of the infill bed plan.

Staff Comments. Staff finds that it will be important for the Legislature to understand how the construction of the Receiver's beds will impact the size and overall approach the department will take in constructing infill beds. Also, the department openly admits that it has not completed an analysis of what type of beds it needs based on behavioral characteristics and criminogenic needs of the inmates. If the department is embarking on large-scale changes to rehabilitation efforts it seems reasonable that some level of evaluation would be completed to determine what objectives the construction program will need to fulfill.

Re-Entry Beds

Background. Assembly Bill 900 included \$1.6 billion in lease-revenue bond authority to construct up to 16,000 re-entry beds, which are smaller secure facilities of up to 500 beds with concentrated rehabilitative services. These facilities are to be sited closer to or in population centers where inmates will parole. The goal of these facilities is to provide targeted and more intensive services for the last 12 months of incarceration and enable a more supported transition from prison back into the community where he or she will parole. Under a re-entry model, the goal is to achieve some continuity in rehabilitation services provided in prison and when the offender paroles.

First Re-Entry Facility in Stockton. Legislation (Chapter 228, Statutes of 2007 [SB 943, Machado]) established the first re-entry facility at the old Northern California Women's Facility in Stockton, California. This facility will serve as a re-entry facility for inmates paroling to San Joaquin County, Calaveras County, and Amador County. The department is actively developing plans for adapting the site based on new design standards that have been developed to make the facilities blend in with the communities. The department has also hosted, in conjunction with the San Joaquin Superior Court, the first provider orientation in the community to start to develop the network of community resources needed to implement the re-entry model effectively.

Current Status of Re-Entry Facilities. In addition to the re-entry facility established in Stockton, the department has also entered an agreement with the City and County of San Francisco to support a 48 bed re-entry program for state prison inmates in the San Francisco County Jail.

Otherwise, the department has been actively engaged in holding web seminars and workshops with representatives from government, law enforcement, and service providers in all 58 counties. The department has also developed a conceptual program plan and several options for a prototype facility depending on the available land to site the facility.

The department reports that 19 counties have submitted proposals to site 6,950 beds in reentry facilities as part of the submissions made to receive Phase I jail funds. The CDCR indicates that it has received a total of 24 proposals for reentry and jail facilities and is expediting the process to award funds and begin construction.

Governor's Budget and Finance Letter. The Governor's budget proposal includes \$727,000 in the current year and \$1.1 million in the budget year to support a pre-activation team for the new Northern California Re-entry Facility (NCRF) located in Stockton. The pre-activation team will be responsible for developing policies and procedures, hiring staff, developing staffing packages, and overseeing contractor renovations.

The Governor's budget also includes \$2.5 million General Fund to support a contract with San Francisco County to run a 48-bed re-entry facility in their county jail. The funding for both NCRF and the San Francisco re-entry contract are included in the population estimate.

Furthermore, a Finance Letter (dated April 1, 2008) includes \$6 million General Fund for study and acquisition to support the development of additional re-entry facilities. The department indicates that these resources would be used to perform pre-planning activities, including site investigations, preliminary real estate due diligence, and entering into agreements for the option to purchase real property.

Staff Comments. Staff finds that the department has done a considerable amount of work to further develop the re-entry facility concept and educate local officials about the concept. Staff also notes that there seems to be considerable interest from local communities in siting a re-entry facility given the submissions received by the department. Nevertheless, the department has had some setbacks in Contra Costa and Shasta counties where actions were taken by the Boards of Supervisors to refuse to participate in siting a re-entry facility. This local opposition is indicative of the community opposition that is likely as the department continues to develop more specifics about potential re-entry projects.

In addition, it is unclear to staff whether the Receiver's bed plan impacts the department's plans for re-entry facilities. For example, will inmates with chronic conditions also have an opportunity to transition to a re-entry facility.

AB 900 Benchmarks – Jail Bed Construction

Background. There are two benchmarks that must be met and verified by a three-member panel comprising of the State Auditor, the Inspector General, and an appointee of the Judicial Council before funding would be made available for Phase II of the jail bed construction plan approved in AB 900. To date, the three-member panel has not met to consider developments made by the department and local communities with regard to the benchmarks detailed below.

- **Jail beds.** At least 50 percent of Phase I jail beds must be under construction or sited.
- **Re-entry Beds.** At least 50 percent of Phase I re-entry beds must be under construction or sited.

Jail Beds

Background. Assembly Bill 900 included \$1.2 billion in lease-revenue bond authority to

construct up to 13,000 new county jail beds. The financing requires a 25 percent county match. Assembly Bill 900 and Chapter 175, Statutes of 2007 [SB 81, Budget]) requires that the funding be allocated to counties that help the state site re-entry facilities, increase mental health and substance abuse services for parolees, and help the state site mental health day treatment for parolees.

Status of the Jail Beds. The Corrections Standard Authority (CSA) is responsible for allocating the funds to build jail beds authorized by AB 900. The Commission started the process of developing the Request for Proposal shortly after AB 900 was enacted. The final proposals were due to CSA by March 18 of this year. The Commission is currently evaluating the proposals and making preliminary ratings for the projects submitted.

The Commission has received 24 proposals for new jail beds that total \$1.2 billion. The funding available in the first phase of AB 900 for jail beds is only \$750 million. On average, the counties are proposing a 46 percent match on projects. The Commission reports that 16 of the counties have accomplished initial planning and identified potential sites for a re-entry facility and 3 of the proposals have accomplished initial planning for a re-entry facility. Furthermore, 13 of the counties have agreed to assist and have identified potential locations for services for parolees and 3 other counties have agreed to assist CDCR in locating parolee services.

Staff Comments. Staff finds that to date only two counties have completely committed to the development of a re-entry facility in their respective counties (San Joaquin and San Francisco). While other counties have agreed, at some level, to help the state site a re-entry facility, there is nothing to prevent a county from retreating from its commitment. For example, CSA awards the jail monies without a clear commitment by the county to site the re-entry facility there is risk that the county may lose interest in siting the facility. Furthermore, it is unclear whether CSA will consider the relative seriousness and commitment of the county to siting a re-entry facility in its allocation of the jail monies.

Infrastructure Issues

Background. Years of deferred maintenance and overcrowding have left CDCR's infrastructure in decay. The CDCR has acute problems with its water and wastewater infrastructure and has been violating state clean water quality standards and wastewater discharge standards for years. This has resulted in expensive surcharges and penalties and adverse relations with local communities.

Assembly Bill 900 included \$300 million General Fund to help address some of the department's infrastructure issues and to facilitate the construction of the infill beds. Another reason General Fund support was included in AB 900 for this purposes is because infrastructure projects that are not deemed salable assets are difficult to fund with lease-revenue bond financing.

Update on Expenditures from AB 900. The department has reported that it has allocated \$35 million from the General Fund allocation provided for infrastructure in AB 900. The department has allocated this funding to the following projects:

- **Water Conservation Devices.** \$15.9 million General Fund for water conservation

devices that restrict excessive toilet flushing.

- **Centinela State Prison.** \$6.5 million General Fund for construction of various upgrades to the waste water treatment plant at this prison.
- **California State Prison, Corcoran/Substance Abuse Treatment Facility.** \$6.1 million General Fund for construction of numerous upgrades to the waste water treatment plant that serves both of these prisons.
- **Infill Planning and Environmental Impact Reports.** \$6.5 million for site assessments and planning studies to develop capital outlay budget packages for infill projects and related environmental impact reports.

Governor's Budget and Finance Letter. The Governor's budget assumes that \$50 million of the AB 900 appropriation for infrastructure will be allocated in the current year and the remaining \$250 million will be allocated in the budget year.

The Governor's budget and Finance Letter (dated April 1, 2008) also includes \$72.5 million General Fund and \$15.2 million from lease-revenue bond financing to support various other infrastructure projects that would be funded outside of the AB 900 appropriation.